



THE COMMONWEALTH OF MASSACHUSETTS

**DEPARTMENT OF
TELECOMMUNICATIONS & ENERGY**

MITT ROMNEY
GOVERNOR

KERRY HEALEY
LIEUTENANT GOVERNOR

ONE SOUTH STATION
BOSTON, MA 02110
(617) 305-3500

JUDITH F. JUDSON
CHAIRMAN

JAMES CONNELLY
COMMISSIONER

W. ROBERT KEATING
COMMISSIONER

BRIAN PAUL GOLDEN
COMMISSIONER

SOO J. KIM
COMMISSIONER

September 29, 2007

VIA EMAIL AND USPS

Eric J. Branfman, Esq.
Philip J. Macres, Esq.
Bingham McCutchen LLP
3000 K Street NW, Suite 300
Washington, DC 20007-5116

Robert J. Munnelly, Jr.
Murtha Cullina LLP
99 High Street, 20th Floor
Boston, MA 02110

RE: Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in the following tariff: M.D.T.E. No. 14, filed with the Department on June 16, 2006, to become effective July 16, 2006, by Verizon New England, Inc. d/b/a Verizon Massachusetts
D.T.E. 06-61

Dear Attorneys Branfman, Macres and Munnelly:

Enclosed please find the first set of information requests issued by the Department of Telecommunications and Energy ("Department") to Broadview Networks, Inc., DSCI Corp., Eureka Telecom, Inc. d/b/a InfoHighway Communications, Metropolitan Telecommunications of Massachusetts, Inc. d/b/a MetTel, New Horizon communications and One Communications ("CLEC Coalition") in the above-captioned matter.

In accordance with the Procedural Notice issued in this docket, please submit information request responses to the Department and the parties within five (5) business days of the date of this request. See Procedural Notice, § III.D.1. Should you have any questions regarding these information requests, please contact me at (617) 305-3578.

Sincerely,

Tina W. Chin
Hearing Officer

Encls.

cc: Service list (w/encls.)

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

**FIRST SET OF INFORMATION REQUESTS OF THE
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY
TO THE CLEC COALITION
D.T.E. 06-61**

Pursuant to 220 C.M.R. § 1.06(6)(c), the Department of Telecommunications and Energy (“Department”) submits to Broadview Networks, Inc., DSCI Corp., Eureka Telecom, Inc. d/b/a InfoHighway Communications, Metropolitan Telecommunications of Massachusetts, Inc. d/b/a MetTel, New Horizon communications and One Communications the following Information Requests.

Instructions

The following instructions apply to this set of Information Requests and all subsequent Information Requests issued by the Department in this proceeding.

1. Each request should be answered in writing on a separate, three-hole punch page with a recitation of the request, a reference to the request number, the docket number of the case, and the name of the person responsible for the answer.
2. Do not wait for all answers to be completed before supplying answers. Provide the answers as they are completed.
3. These requests shall be deemed continuing so as to require further supplemental responses if Verizon or its witnesses receives or generates additional information within the scope of these requests between the time of the original response and the close of the record in this proceeding.
4. The term “provide complete and detailed documentation” means:

Provide all data, assumptions and calculations relied upon. Provide the source of and basis for all data and assumptions employed. Include all studies, reports and planning documents from which data, estimates or assumptions were drawn and support for how the data or assumptions were used in developing the projections or estimates. Provide and explain all supporting workpapers.
5. The term “document” is used in its broadest sense and includes, without limitation, writings, drawings, graphs, charts, photographs, phono-records, microfilm, microfiche, computer printouts, correspondence, handwritten notes, records or reports, bills, checks, articles from journals or other sources and other data compilations from which

information can be obtained and all copies of such documents that bear notations or other markings that differentiate such copies from the original.

6. If any one of these requests is ambiguous, notify the Hearing Officer so that the request may be clarified prior to the preparation of a written response.
7. Please serve a copy of the responses as follows: (a) one original to Mary L. Cottrell, Secretary of the Department; (b) one copy to all parties; (c) two copies to Tina W. Chin, Hearing Officer; and (d) one copy to each Department staff member listed on the current distribution list.

Information Requests to CLEC Coalition

- DTE-CC 1-1 Please provide a copy of the FCC's Accounting Order cited on page 6, footnote 4 of the Rebuttal testimony.
- DTE-CC 1-2 Please provide a copy of the ARMIS Report 43-03 cited on page 3, line 12 of the Rebuttal testimony.
- DTE-CC 1-3 Please see page 10, lines 2-3 of the Rebuttal testimony. The testimony states that the panel "generally employ VZ-MA's approach to calculating the resale discounts." Does the panel agree that VZ-MA's methodology for calculating the resale discounts is generally correct?
- DTE-CC 1-4 What guidance generally or specifically exists at the state or federal level for state commissions to rely upon in determining the correct methodology to use in setting resale discounts, given that the 8th Circuit Decision vacated the FCC's avoidable cost rules and the FCC has not issued new rules? Is a state commission legally bound to consider an ILEC petition to change the resale discount where the FCC has not completed its rulemaking to develop new rules for the avoided cost discount? If your answer is no, do states have the discretion to do so nonetheless.
- DTE-CC 1-5 Please see footnote 13, second sentence of the Rebuttal testimony. What would be the general effect on the trend analysis of removing revenues from miscellaneous services that are not subject to resale?
- DTE-CC 1-6 To what does the panel attribute the increase in the ratio of total operating expenses to retail revenue from 1996 through 2005? Do total operating expenses include only total retail expenses?
- DTE-CC 1-7 Is there evidence that CLECs can not compete profitably with a resale discount below 15 percent?
- DTE-CC 1-8 Please see footnote 20 of the Rebuttal testimony. What is the point being made from the text contained in the parentheses?

- DTE-CC 1-9 What explanation does Verizon give for using separated revenues and expenses in its avoided cost study, where the Department's precedent is to use unseparated data? Are the reasons that the Department articulated for requiring the use of unseparated data in its Consolidated Arbitrations, Phase II Orders still relevant for use in Verizon's current filing?
- DTE-CC 1-10 Please see page 31, lines 4-14 of the Rebuttal testimony. Is the panel aware of Verizon having treated 100% of its sales expenses as avoided in any other state commission avoided cost proceedings since 2001?
- DTE-CC 1-11 Please see footnote 34 of the Rebuttal testimony. Please provide a copy of the FCC's Joint Conference Order. Please see page 37, line 6 of the Rebuttal testimony. Please provide a copy of the Joint Conference recommendation.
- DTE-CC 1-12 Please see page 39, lines 4-10 of the Rebuttal testimony.
Notwithstanding the panel's statements concerning ILEC obligations to use retail related expenses for Acct. 6623 in ARMIS report 43-03, is there any evidence that Verizon's special study is a less reliable indicator of its retail related expenses for Massachusetts than the ARMIS data?
- DTE-CC 1-13 Please see page 42, lines 9-15 of the Rebuttal testimony. Please provide copies of the pages of the Virginia and District of Columbia decisions that discuss indirect expenses. Also, please provide copies of relevant pages from any other post 2001 state decision that support your position.
- DTE-CC 1-14 Please see page 51, lines 4-7 of the Rebuttal testimony. State the basis of support for the statements in this testimony.
- DTE-CC 1-15 Is the panel aware of any federal or state decision since 1996 in which the resale discount was determined by taking into account the level of ILEC sales agent commissions?
- DTE-CC 1-16 See page 53, lines 13-18 of the Rebuttal testimony. Is the panel using the term "anticompetitive" in the sense of describing unlawful conduct? Assuming so, if the resale discount is calculated correctly pursuant to relevant legal and precedential standards, and the result is a discount percentage that is lower than the ILEC's sales agents' commissions, would that discount still be anticompetitive?